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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 DANIEL BERRY,

12 Plaintiff,

13 v.

14 MICHAEL J. ASTRUE, Commissioner of
Social Security,

15 Defendant.

Case No. C08-5149 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION AFFIRMING
COMMISSIONER

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17 The Magistrate Judge recommends that the Court should conclude that Daniel Berry was
18 properly denied social security benefits because application of the proper legal standard and
19 substantial evidence support the Administrative Law Judge's (ALJ) finding that Plaintiff is not
20 disabled.

21 Plaintiff objects to the Report and Recommendation contending the Magistrate Judge erred
22 in not finding the ALJ erred in not considering that a commercial driver's license is a bona fide job
23 requirement for the job of courier driver and that Plaintiff's pain medication disqualified him from
24 obtaining a commercial driver's license.

25 After carefully considering Plaintiff's arguments against the analysis and authorities

1 presented by the Magistrate Judge, the Court concludes that the Magistrate Judge did not err.

2 The Court, having reviewed plaintiff's complaint, the Report and Recommendation of
3 Magistrate Judge Karen L. Strombom, and the remaining record, does hereby find and ORDER:


- 4 (1) The Court adopts the Report and Recommendation;
- 5 (2) The administrative decision is **AFFIRMED**; and
- 6 (3) The Clerk is directed to send copies of this Order to Plaintiff's counsel, Defendant's
7 counsel and Magistrate Judge Karen L. Strombom.

8 DATED this 27th day of February, 2009.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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